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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

July 5, 2001

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

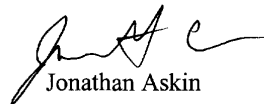
**Re: Notice of *Ex Parte* Presentation in  
CC Docket Nos. 96-98, 98-147**

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned docketed proceedings of ex parte meetings by Jonathan Askin of the Association for Local Telecommunications Services with Sam Feder, Legal Advisor to Commissioner Martin and with Bryan Tramont, Senior Legal Advisor to Commissioner Abernathy. During the meeting, ALTS discussed the DC Circuit Remand of the FCC's Collocation Order and FCC adoption of an order to ensure timely and cost-effective collocation consistent with the DC Circuit Remand. ALTS discussed positions set forth in comments filed in the above-referenced proceedings. Specifically, ALTS urged the Commission to establish collocation rules that allow for the collocation of multifunction equipment and that allow cross-connects between telecommunications carriers collocated at the incumbents office. The attached handout covers the issues discussed in the meetings.

Pursuant to the Commission's rules, an original and a copy of this notice of *ex parte* contact are being submitted for inclusion in the public record of the above-referenced proceedings. If you have any questions about this matter, please contact me at 202-969-2587.

Respectfully submitted,

  
Jonathan Askin

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COLLOCATION REMAND  
CC Docket 98-147  
CC Docket 96-98

May 31, 2001

Joint Commenters

ALTS, Cbeyond Communications, CompTel,  
e.spire Communications, and XO  
Communications

Kelley Drye & Warren, LLP

# Overview

- Meaning of “necessary” under 251(c)(6)
- Collocation of “multifunctional” equipment
- Reaffirm space assignment, separate space, entrance rules
- Necessity of cross-connections for interconnection and access to UNES
- National collocation standards
- Access to *all* unbundled loops, including electronics
- Clarification of subloop unbundling obligations

## Meaning of Necessary Under 251(c)(6)

- Should be interpreted in way that gives meaning to 251 obligations (i.e. interconnection and unbundling requirements), not in vacuum.
- Inquiry is *not* what is necessary to interconnect in a minimalist engineering sense, but what is necessary to fulfill purpose of 251(c)(2) and 251(c)(3).
- Limits on 251(c)(6) are:
  - (1) no obligation where space exhaust; (2) technical infeasibility; (3) only “telecommunications carriers;” (4) interconnection for transmission/routing of local exchange/access service; (5) access to UNEs for telecom service.

## Collocation of Multifunctional Equipment “Necessary” Under 251

- Should be allowed if collocated for purposes of access to UNEs and/or interconnection; and meets NEBS Level 1 safety standards.
- ILEC should have burden to show equipment cannot technically be collocated or not used for interconnection/access to UNEs.
- ILECs already collocate multi-functional equipment and technological advances are putting multiple functionalities in single and smaller boxes.
- Denial equals increased costs for CLECs and inefficient network architectures.

## Commission Should Reaffirm Space Assignment, Separate Collocation, and Separate Entrance Rules

- Non-discrimination requirements of 251 dictate that CLECs have ability to choose their own collocation space within the central office, just like ILECs do.
- Technical impossibility of a particular collocation arrangement or space exhaust are only legitimate reasons for denial of space.
- As Commission has determined, “security” considerations do not trump 251(c)(6) obligations.
- Commission should adopt the space selection procedures proposed by the Joint Commenters.

## Cross-Connections Between Collocators are Necessary for Interconnection and Access to UNEs

- Competitive transport and dark fiber providers must be allowed to collocate and cross-connect to other CLECs collocated at the ILEC central office.
- Especially important in light of RBOCs continuing efforts to “de-list” interoffice transport as a UNE and lack of EEL access.
- ILECs have allowed some carriers to collocate and cross-connect, but voluntary ILEC commitments are not enough.
- Solutions: Require ILECs to tariff connection service; establish cross-connect UNE; allow CLECs to designate common manhole for access to C.O. and each other.

## Commission Should Adopt Additional National Collocation Standards

- National provisioning standards and space reservations policies for *all* types of collocation, not just caged, are necessary.
- Collocation delays equal delays in turning up service and impair ability of carriers to attract investment capital.
- 90 day caged interval should be supplemented by:
  - 60 day interval for cageless, virtual and remote
  - 30 day interval for modifications to existing arrangements
  - States may establish shorter intervals, which would give rise to a rebuttable presumption that the interval is feasible for the ILEC territory-wide.



## Commission Should Clarify that the Act Requires Unbundled Access to All Loops and Subloop Capabilities

- Loop unbundling rules should require access to not only high capacity loops, but also to optical wavelengths generated by DWDM and similar equipment
- UNE Remand Order contemplated loop definition that applies equally to then-existing as well as new technologies
- All subloop features, functions including transmission speeds and quality of service classes must be unbundled
- Subloop unbundling should be facilitated by requiring physical and virtual collocation at remote terminals and allowing for cross-connections at the RT.

#### **Enforcement**

- Strengthen good faith negotiation rules and require ILECs to bargain with CLECs over inclusion of (among other things) ordinary, commercial self-executing performance metrics in contracts
- Establish a set of minimum self-executing performance metrics for wholesale provisioning
- Ensure Penalties Adequately Compel Compliance – must be more than “cost of business”
- Make information on ILEC noncompliance and penalties readily accessible
- Make list and issues of pending Enforcement Bureau formal complaints publicly available
- Ensure timely resolution of complaint proceedings
- No 271 approval for RBOC not complying with merger conditions or 271 performance metrics
- Establish an FCC Competition Enforcement Ombudsman

#### **Inter-Carrier Compensation**

- Ensure IXC payment of access charges
- Ensure ILECs do not game Recip Comp Order
- Implement new regulatory pricing regimes simultaneously and in competitively neutral manner

#### **Loops and UNE Access**

- **Loops**
  - Grant ALTS' Petition on Loop Provisioning, submitted in May, 2000, in an effort to resolve crucial network obstacle to competitive entry -- timely and cost-effective access to loop plant
  - Adopt order to ensure CLEC access to next-generation loop architecture
  - Dismiss RBOC Petition on High Cap Loops and Transport
- **EELs**
  - Stop ILEC gaming of EEL Order and Compel ILECs to provision EELs to CLECs -- Adopt order eliminating ILEC misapplication of “commingling” and “significantly local” restrictions
- **Collocation**
  - Ensure Collocation of Multifunction Equipment
  - Ensure CLEC-CLEC cross-connects on ILEC premises
  - Eliminate loopholes allowing excessive collocation charges (e.g., power charges; decommissioning)
- **Establish presumptively reasonable non-recurring and monthly recurring charges for UNEs**

#### **Special Access**

- **Develop and Enforce Special Access Provisioning Guidelines**
  - Current ILEC procedures for provisioning Special Access undermines CLECs' ability to compete.

#### **Building Access and Rights of Way**

- **Ensure Competitive Access to Residential and Commercial MTEs**
  - Ensure Prohibition Against Exclusive Contracts
- **Ensure Rights-of-Way Practices do not Thwart Competition**
  - Establish an expedited process for quickly resolving preemption petitions under Section 253
  - Adopt clear guidelines and/or rules clarifying what municipal actions violate Section 253(a)
  - Establish and enforce strong rules ensuring competitive access to poles, conduits, and rights-of-way